

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SHERRY A. SHERMAN,

7:11-CV-910
(DNH/ATB)

Plaintiff,

-v-

NATIONAL GRID,

Defendant.

APPEARANCES:

OF COUNSEL:

SHERRY A. SHERMAN
Plaintiff, Pro Se
24032 County Route 159
Watertown, NY 13601

BOND, SCHOENECK & KING PLLC
One Lincoln Center
Syracuse, NY 13202

ROBERT A. LABERGE, ESQ.

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff brought this action pursuant to 42 U.S.C. § 2000e-5 alleging employment discrimination based on gender and pregnancy. On April 3, 2012, the Honorable Andrew T. Baxter, United States Magistrate Judge, advised, by Report-Recommendation that plaintiff's complaint be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m) for failure to serve the complaint on the defendant National Grid. No objections to the Report-Recommendation were filed.

Plaintiff filed her complaint in the Northern District of New York on August 3, 2011. The Federal Rules of Civil Procedure require that a complaint be served within 120 days of filing. Fed. R. Civ. P. 4(m). Accordingly, plaintiff was ordered to serve the complaint on National Grid and file proof of service with the court by December 30, 2011. After requesting and being granted several extensions of time, plaintiff was directed to serve the complaint by March 30, 2012, and was warned that the failure to timely serve the complaint could result in the dismissal of her action. Because proof of service was not filed with the court by the March 30, 2012, deadline, Magistrate Judge Baxter recommended dismissal of the complaint.

To date, plaintiff has not filed proof of service with the court. However, on April 20, 2012, defendant National Grid filed an answer. Dkt. No. 13. Defendant's pleading states that it "answers the plaintiff's complaint, dated March 30, 2012." Id. Accordingly, it appears plaintiff served the complaint on National Grid by the March 30, 2012, deadline ordered by Magistrate Judge Baxter. However, proof of service is still required by Federal Rule of Civil Procedure 4(l). Therefore plaintiff is directed to file proof of service with the court within FOURTEEN (14) days of the date of this Decision and Order. Plaintiff's failure to do so will result in dismissal of this action without further order.

Plaintiff having served the complaint on the defendant by the March 30, 2012, deadline, the Report-Recommendation of the Magistrate Judge is rejected as moot. See 28 U.S.C. § 636(b)(1).

Therefore, it is

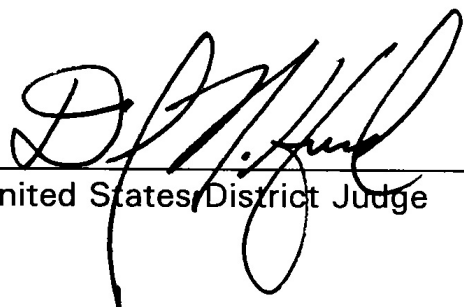
ORDERED that

1. Plaintiff file proof of service with the court pursuant to Federal Rule of Civil Procedure 4(l) within FOURTEEN (14) days of the date of this Decision and Order; and

2. Plaintiff's failure to file proof of service within the required time will result in DISMISSAL of this action without prejudice, without further order.

IT IS SO ORDERED.

Dated: May 7, 2012
Utica, New York.


United States District Judge